

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 847

Introduced by Assembly Member Berg

February 18, 2005

An act to add ~~Section 14598 to the Welfare and Institutions Sections 1231.5, 1580.1, 1734.5, and 100315 to the Health and Safety Code~~, relating to the elderly.

LEGISLATIVE COUNSEL'S DIGEST

AB 847, as amended, Berg. Program for All-Inclusive Care for the Elderly.

Existing law establishes the federal Medicaid program, administered by each state, California's version of which is the Medi-Cal program. The Medi-Cal program, which is administered by the State Department of Health Services under the direction of the Director of Health Services, provides qualified low-income persons with health care services.

Existing federal law establishes the Programs of All-Inclusive Care for the Elderly (PACE), which provides specified services for older individuals so that they may continue living in the community. Federal law permits states to implement the PACE program as a Medicaid state option.

Existing state law authorizes the department to establish the California Program of All-Inclusive Care for the Elderly, and to contract with up to 10 demonstration projects to develop risk-based long-term care pilot programs, and establishes PACE program services as a covered benefit of the Medi-Cal program.

This bill would authorize the State Department of Health Services to negotiate and grant exemptions to PACE organizations from ~~certain~~

licensing and regulatory requirements *applicable to clinics, residential care facilities for the elderly, and home health agencies. The bill would require the department to approve or deny any request for an exemption in writing within 60 days of submission. The bill would authorize the department to suspend or revoke an exemption that has been granted to a PACE organization if the department determines the PACE program is operating in a manner contrary to the terms of the exemption or if the exemption is applicable to one or more license categories or locations.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) The State Department of Health Services has established
4 the California Program for All-Inclusive Care for the Elderly
5 (PACE), to promote the development of community-based
6 capitated, health, and long-term care programs for the frail
7 elderly.
8 (b) The department, in coordination with the federal Centers
9 for Medicare and Medicaid Services, has entered into contracts
10 with PACE organizations under Chapter 8.75 (commencing with
11 Section 14590) of Part 3 of Division 9 of the Welfare and
12 Institutions Code, which require PACE organizations to meet
13 federal regulations under subchapter E (commencing with
14 Section 460) of Chapter 4 of Title 42 of the United States Code
15 of Federal Regulations, and applicable state requirements.
16 (c) PACE organizations are required by federal law and
17 regulation to provide comprehensive medical, health, and social
18 services at PACE centers, inpatient facilities, participant homes,
19 and other locations, under the direction and supervision of an
20 interdisciplinary team of physicians, nurses, and other health
21 professionals who assess participant needs, develop care plans,
22 and deliver all services which are integrated into a complete
23 health care plan. PACE organizations offer and manage all of the
24 medical, social, and rehabilitative services their participants need
25 to preserve or restore their independence, to remain in their
26 homes and communities, and to maintain their quality of life.

1 (d) In order to provide the range of services required by
2 federal and state laws, PACE organizations are subject to
3 regulations of multiple state departments and agencies, including
4 Medi-Cal managed care as well as licensing for clinic services,
5 home health services, and adult day health care services. PACE
6 organizations deliver services in participants' home
7 environments, which may include independent living
8 arrangements, congregate housing, and board and care or
9 residential care facilities.

10 (e) The state regulations that are applicable to PACE
11 organizations are in some instances conflicting and inappropriate
12 for PACE organizations or are inconsistent with federal or other
13 state requirements that are specially adapted to the PACE model
14 for providing health and care services.

15 (f) In addition, PACE organizations are required by state
16 contract to hold several licenses for the same licensed service in
17 multiple locations, requiring multiple applications and other
18 communications with the department.

19 ~~SEC. 2. Section 14598 is added to the Welfare and~~
20 ~~Institutions Code, to read:~~

21 ~~14598. (a) The department may negotiate and grant to entities~~
22 ~~contracting with the department under the PACE program~~
23 ~~exemptions from licensing requirements that are necessary or~~
24 ~~appropriate for the implementation of the PACE model and that~~
25 ~~do not jeopardize the health and welfare of beneficiaries~~
26 ~~receiving services under PACE.~~

27 ~~(b) Any organization contracting with the department under the~~
28 ~~PACE requesting an exemption applicable to two or more~~
29 ~~licenses held by that organization, the organization may submit~~
30 ~~to the department one request for all licenses held by that~~
31 ~~organization, so long as the request lists all of the locations and~~
32 ~~license number held by that organization and the requested~~
33 ~~exemption is the same for all licensed locations.~~

34 ~~(c) If an organization contracting with the department under the~~
35 ~~PACE requests an exemption from regulations that have been~~
36 ~~adopted by more than one department within the California~~
37 ~~Health and Human Services Agency, the Secretary of Health and~~
38 ~~Human Services shall consult with the applicable state~~
39 ~~departments, and may grant exemptions from regulations that are~~
40 ~~necessary or appropriate for the implementation of the PACE~~

1 ~~model and do not jeopardize the health and welfare of~~
2 ~~beneficiaries receiving benefits under PACE.~~

3 *SEC. 2. Section 1231.5 is added to the Health and Safety*
4 *Code, to read:*

5 *1231.5. The department may, as determined necessary and*
6 *appropriate, negotiate and grant to entities contracting with the*
7 *department under the PACE program exemptions from the*
8 *provisions contained in this chapter in accordance with the*
9 *requirements of Section 100315.*

10 *SEC. 3. Section 1580.1 is added to the Health and Safety*
11 *Code, to read:*

12 *1580.1. The State Department of Health Services, on behalf*
13 *of the department and as applicable, the California Department*
14 *of Aging, may, as determined necessary and appropriate,*
15 *negotiate and grant to entities contracting with the State*
16 *Department of Health Services under the PACE program*
17 *exemptions from the provisions contained in this chapter in*
18 *accordance with the requirements of Section 100315.*

19 *SEC. 4. Section 1734.5 is added to the Health and Safety*
20 *Code, to read:*

21 *1734.5. The department may, as determined necessary and*
22 *appropriate, negotiate and grant to entities contracting with the*
23 *department under the PACE program exemptions from the*
24 *provisions contained in this chapter in accordance with the*
25 *requirements of Section 100315.*

26 *SEC. 5. Section 100315 is added to the Health and Safety*
27 *Code, to read:*

28 *100315. (a) The department may negotiate and grant, on its*
29 *behalf and on behalf of the State Department of Social Services*
30 *and the California Department of Aging to a PACE program, as*
31 *defined in Chapter 8.75 (commencing with Section 14590) of*
32 *Part 3 of Division 9 of the Welfare and Institutions Code,*
33 *exemptions from the provisions contained in Chapter 1*
34 *(commencing with Section 1200), Chapter 3.3 (commencing with*
35 *Section 1570), and Chapter 8 (commencing with Section 1725) of*
36 *Division 2, and Title 22 of the California Code of Regulations,*
37 *that are necessary or appropriate for the implementation of the*
38 *PACE model, including the use of alternate concepts, methods,*
39 *procedures, techniques, space, equipment, personnel, personnel*
40 *qualifications, or the conducting of pilot projects, provided that*

1 *the exemptions are implemented in a manner that does not*
2 *jeopardize the health and welfare of participants receiving*
3 *services under PACE.*

4 *(b) A written request and substantiating evidence supporting*
5 *the request for an exemption under subdivision (a) shall be*
6 *submitted by the PACE program to the department. A PACE*
7 *program may submit a single request for an exemption from the*
8 *licensing requirements applicable to two or more licenses held*
9 *by that organization, so long as the request lists the locations*
10 *and license numbers held by that organization and the requested*
11 *exemption is the same and appropriate for all licensed locations.*

12 *(c) The department shall approve or deny any request within*
13 *60 days of submission. The approval shall be in writing and shall*
14 *provide for the terms and conditions under which the exemption*
15 *is granted. A denial shall be in writing and shall specify the basis*
16 *therefor.*

17 *(d) If, after investigation, the department determines that a*
18 *PACE program that has been granted an exemption under this*
19 *section is operating in a manner contrary to the terms and*
20 *conditions of the exemption, the department shall immediately*
21 *suspend or revoke the exemption. If the exemption is applicable*
22 *to more than one location or more than one category of*
23 *licensure, or both, the department may suspend or revoke an*
24 *exemption as to one or more license categories or locations as*
25 *deemed appropriate by the department.*